

William J. Flynn, State Bar No. 95371
Scott M. De Nardo, State Bar No. 216749
Benjamin K. Lunch, State Bar No. 246015
NEYHART, ANDERSON, FLYNN & GROSBOLL
44 Montgomery Street, Suite 2080
San Francisco, CA 94104
Tel. (415) 677-9440
Fax (415) 677-9445
Email: sdenardo@neyhartlaw.com

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
(San Francisco Division)

LOCAL 234 of the INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS, AFL-CIO; et al.,

Plaintiffs,

vs.

ADM ELECTRIC, INC., a California
Corporation; and, G. DEAN ALLEMAND, an
Individual,

Defendants.

Case No. C-07-4079 SC

**DECLARATION OF MIRA
ARIZMENDEZ IN SUPPORT OF
MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANTS ADM
ELECTRIC, INC. and G. DEAN
ALLEMAND**

[F.R.C.P. Rule 55(a)]

Date: April 25, 2008
Time: 10:00 a.m.
Courtroom: 1, 17th Floor
Location: 450 Golden Gate Ave
San Francisco, CA 94102
Judge: Hon. Samuel Conti

DECLARATION OF MIRA ARIZMENDEZ

I, Mira Arizmendez, declare and state:

1. I am not a party to this action. I am employed by the Plaintiff INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 234, which assists in the collection and disbursement of funds for the following Trusts: INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS' UNION, LOCAL 234 EDUCATIONAL AND TRAINING FUND; ELECTRICAL WORKERS HEALTH & WELFARE TRUST FUND; INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS DISTRICT 9 PENSION PLAN. I make the following declaration based upon my knowledge, except as to those matters which are herein stated on information and belief, and as to those matters, I believe them to be true. If called as a witness, I can and would testify competently thereto.

2. In June 2006, the parties settled the above-captioned action pursuant to the terms and conditions of a Settlement Agreement that was executed by the Defendants on June 26, 2006.

3. Pursuant to the Settlement Agreement, Defendants submitted \$300.00 monthly payments for June 2006, July 2006, October 2006, November 2006 and December 2006. Defendants failed to submit payments for the months of August 2006, September 2006, and January 2007 to the present.

4. Defendants also underpaid or failed to pay required contributions to the Trusts, in that Defendants failed to contribute \$4,347.00 to the ELECTRICAL WORKERS HEALTH & WELFARE TRUST FUND (the "Health & Welfare Trust") for the month of February 2007. This resulted in liquidated damages of \$434.70. Defendants made a payment of \$4,746.00 for March 2007, of which \$4,347.00 was applied to the outstanding principal owed for February 2007 and \$399.00 was applied to the March 2007 principal. Because the payment was applied to the

1 outstanding principal for February 2007, \$474.60 in liquidated damages are owed on the unpaid
2 principal for March 2007. Therefore, in addition to the amount owed under the Settlement
3 Agreement, Defendants owe \$4,347.00 in principal and \$909.30 in liquidated damages to the
4 Health & Welfare Trust.

5 5. Defendants failed to submit monthly transmittals to the Health & Welfare Trust for
6 April 2007 to the present, resulting in an unknown amount of principal (and liquidated damages)
7 outstanding. Defendants also failed to submit monthly transmittals to the INTERNATIONAL
8 BROTHERHOOD OF ELECTRICAL WORKERS DISTRICT 9 PENSION PLAN ("Pension
9 Plan") for February 2007 to the present, resulting in an additional unknown amount of principal
10 (and liquidated damages) outstanding. Such monthly transmittals are used to calculate the
11 required monthly contributions to the Trusts, and Defendants are required by the terms of
12 agreements between them and the Trusts to make such transmittals.
13
14

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct. Dated this ____th day of February, 2008 at San Francisco, California.
17
18

MIRA ARIZMENDEZ
19
20
21
22
23
24
25
26
27

1 outstanding principal for February 2007, \$474.60 in liquidated damages are owed on the unpaid
2 principal for March 2007. Therefore, in addition to the amount owed under the Settlement
3 Agreement, Defendants owe \$4,347.00 in principal and \$909.30 in liquidated damages to the
4 Health & Welfare Trust.

5 5. Defendants failed to submit monthly transmittals to the Health & Welfare Trust for
6 April 2007 to the present, resulting in an unknown amount of principal (and liquidated damages)
7 outstanding. Defendants also failed to submit monthly transmittals to the INTERNATIONAL
8 BROTHERHOOD OF ELECTRICAL WORKERS DISTRICT 9 PENSION PLAN ("Pension
9 Plan") for February 2007 to the present, resulting in an additional unknown amount of principal
10 (and liquidated damages) outstanding. Such monthly transmittals are used to calculate the
11 required monthly contributions to the Trusts, and Defendants are required by the terms of
12 agreements between them and the Trusts to make such transmittals.
13
14

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct. Dated this 28th day of February, 2008 at San Francisco, California.

17
18 
19 MIRA ARIZMENDEZ
20
21
22
23
24
25
26
27

PROOF OF SERVICE BY MAIL

I, the undersigned, declare:

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action; my business address is 44 Montgomery Street, Suite 2080, San Francisco, California 94104. On February 28, 2008, I served the within:

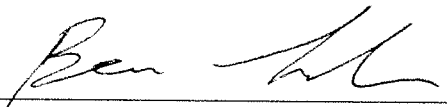
DECLARATION OF MIRA ARIZMENDEZ IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS ADM ELECTRIC, INC. and G. DEAN ALLEMAND

on the parties in said cause following our business practice, with which I am readily familiar. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I placed a true copy of the within document enclosed in a sealed envelope with first class postage thereon fully prepaid for collection and deposit on the date shown below in the United States mail at San Francisco, California addressed as follows:

ADM ELECTRIC, INC.
2120 Santa Rosa Dr
Hollister, CA 95023

G. DEAN ALLEMAND
2120 Santa Rosa Dr
Hollister, CA 95023

I declare under the penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 28, 2008, at San Francisco, California.


Ben Lunch